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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,409	10/24/2003	Jeffrey P. Snover	MS1-1739US	1913
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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2193	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/693,409

Applicant(s)

SNOVER ET AL.

Examiner

William H. Wood

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

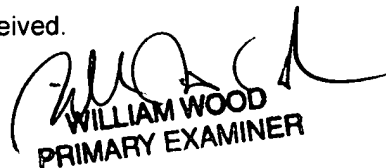
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


WILLIAM WOOD
PRIMARY EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-20 are pending and have been examined.

In view of the typographical oversight that gives the appearance of claim 12 not being rejected, the finality of the previous office action (mailed 05 June 2007) is withdrawn.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6, 8, 9-10, 12 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Altiris **RapidInstall**, version 3.0, "Release Notes".

Claim 1

RapidInstall disclosed in a command line operating environment, a computer-executable method comprising:

executing each command on a command line in a first execution mode or in an alternate execution mode (*page 1, section "Simulated Install –si command*

line”), wherein executing the command in the alternate execution mode occurs when the command includes an instruction to execute in the alternate execution mode (page 1, section “Simulated Install –si command line”), the alternate execution mode being provided by the command line operating environment (the RapidInstall environment).

Claim 2

RapidInstall disclosed the computer-executable method of claim 1, wherein the alternate execution mode visually displays results of executing the command (*page 1, section “Simulated Install –si command line”*).

Claim 3

RapidInstall disclosed the computer-executable method of claim 1, wherein the alternate execution mode visually displays simulated results of executing the command (*page 1, section “Simulated Install –si command line”*).

Claim 6

RapidInstall disclosed the computer-executable method of claim 1, wherein executing the command in the alternate execution mode further occurs when the command line includes a switch indicating the alternate execution mode (*page 1, section “Simulated Install –si command line”*).

Claim 8

RapidInstall disclosed the computer-executable method of claim 1, wherein the instruction comprises a call to a method provided by the command line operating environment (*page 1, section "Simulated Install -si command line"; the RapidInstall environment*).

Claims 9-10 and 16-18

The limitations of claims 9-10 and 16-18 are substantially the same as for claims 1-3, 6 and 8 and as such are rejected in the same manner.

Claim 12

RapidInstall disclosed the computer-readable medium of claim 9, wherein the task comprises a stand-alone executable command (*page 1, section "Simulated Install -si command line"*).

Claim Rejections - 35 USC § 102/103

3. Claims 7 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Altiris

RapidInstall, version 3.0, "Release Notes".

Claim 7

RapidInstall disclosed the computer-executable method of claim 6, wherein the switch comprises "whatif" (*nonfunctional descriptive material reads upon **RapidInstall** page 1, section "Simulated Install -si command line"; "whatif" is unique label just like "-si"*) and the alternate execution mode visually displays simulated results of executing the command (*see claim 3*).

Claim 11

The limitations of claims 11 are substantially the same as for claim 7 and as such are rejected in the same manner.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altiris **RapidInstall**, version 3.0, "Release Notes" in view of **Dykhuis**, R., "Beefing up DOS with 4DOS".

Claims 4 and 19

RapidInstall did not explicitly state *wherein the alternate execution mode prompts for verification of executing the command before executing the command.*

Dykhuis demonstrated that it was known at the time of invention to make use of verification prompts (page 36, middle column, paragraph beginning “MOVE will copy ...” and later “will prompt you with a ‘Y’ or ‘N’ to confirm ...”). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **RapidInstall** with a verification process as is often typical and as demonstrated by **Dykhuis**. This implementation would have been obvious because one of ordinary skill in the art would be motivated to allow a user to “make sure” before an action irrecoverably alters the system’s configuration or performance as demonstrated with overwrite errors (**Dykhuis**: page 36, middle column, paragraph beginning “MOVE will copy ...”).

The limitations of claim 19 are substantially the same as for claim 4 and as such are rejected in the same manner.

6. Claims 5 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altiris **RapidInstall**, version 3.0, “Release Notes” in view of **Yager**, T., “Taking Command of Windows NT”.

Claims 5 and 20

RapidInstall did not explicitly state *wherein the alternate execution mode performs a security check to determine whether a user requesting the execution of the command has sufficient privileges to execute the command*. **Yager** demonstrated that it was known at the time of invention to make use of command security checking (page 4, middle of left column to right column). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **RapidInstall** with a verification as to user security or access level process as is often typical. This implementation would have been obvious because one of ordinary skill in the art would be motivated to allow a system to provide security to functions or commands which might have a significant impact on a system's configuration or performance.

The limitations of claim 20 are substantially the same as for claim 5 and as such are rejected in the same manner.

7. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altiris **RapidInstall**, version 3.0, "Release Notes" in view of **Murthy** et al. (USPN 7,103,590))

Claims 13-15

RapidInstall did not explicitly state *wherein the task comprises a pipeline of executable commands, each executable command operating in a separate*

process; wherein the task comprises a pipeline of executable commands, each executable command operating in the same process; or wherein each executable command comprises an instantiated class. **Murthy** demonstrated that it was known at the time of invention to make use of multi-process/threaded systems; pipelining processes (*column 6, lines 47-52; column 8, lines 11-13*) and objected oriented class/object technology (*column 1, lines 6-9*). It would have been obvious to one of ordinary skill in the art at the time of invention to implement **RapidInstall** system with each of the above technologies to create a series of pipelined commands operating on either one process or multiple processes and using class instantiation. This implementation would have been obvious because one of ordinary skill in the art would be motivated: to increase flexibility (of design and implementation) through the use of discrete pipelineable commands; to increase workload throughput through multiple processes and parallelization (*column 2, lines 11-17*); and to increase ease of software maintenance with object oriented technology.

Response to Arguments

8. Applicant's arguments filed 25 October 2007 have been fully considered but they are not persuasive. Applicant argues the cited reference **RapidInstall** fails to disclose an alternate execution mode being provided by the command line operating environment. Applicant makes this argument based on several sub-arguments: ¹⁾ **RapidInstall** fails disclose an operating environment; ²⁾ in

RapidInstall the command itself provides the alternate functionality, not the operating environment; and ³⁾ the meaning of the limitation "providing" has been improperly construed.

First, under the broadest reasonable interpretation of the claim language, **RapidInstall** discloses an operating environment. Applicant's originally filed disclosure does not define the term "operating environment". Appellant's later filed "webopedia" definition is broad and includes some ill-defined components of software and/or hardware constituting the "environment" in which a program is run. The art discloses an operating environment in at least two ways. First, **RapidInstall** creates and executable (command) for performing a function (page 1, paragraph 1, "self-extracting executable (.exe) file called a RapidInstall Package") and this command is executed by the system (page 1, paragraph 2, "Packages can then be run on client PCs"). Clearly the system provides an operating environment for the running or executing of commands (page 1, paragraph 2, "Packages can then be run on client PCs") in both the hardware of the "client PC" and any operating software on that PC (note at least the command line system in which the RapidInstall executable is executed). Second, the **RapidInstall** executable is itself a "command line operating environment" as it provides an environment software for which its execution occurs (it provides the command and the command line options as an environment for running the executable, see p. 1-

3, note switches such as -si, -r, -i, -vb, -cu). The term is simply too broad to establish any meaningful difference with the current cited art.

Second, under the broadest reasonable interpretation of the claim language, **RapidInstall** discloses "provided by the command line operating environment". According to the above analysis of what constitutes a "command line operating environment", the cited reference provides the alternate mode/functionality both by the executable command and the system (including hardware and any operating software, such as the command line OS or shell). Applicant does not contest the first point, but does contest the second.

In view of Applicant's argument (Brief: page 14) that the meaning of "providing" has been stretched to include system resources external to the command, it is noted that Applicant's argument equates to saying: "the system executing the command does not provide the functionality of the RapidInstall command/executable, but merely enables said functionality". According to normal use of language, when a system (operating environment including hardware and software) enables functionality which is found in a command that the system executes, the system then provides that functionality. The system and command are not separate. The command requires the system resources (software routines, hardware memories and processors, etc.) in order to produce the ultimate functionality. Thus, execution of a command which may contain certain functionality is proof of operating environment provision of

the command along with its functionality. Applicant's claim language establishes a loose relationship with the phrase "providing". Nothing in the claim language describes a particular method or manner of "providing".

Finally, the phrase "provided by the command line operating environment" is broad and includes all functionality provided by that environment. It is not clear the exact relationship of how the functionality is provided by that environment. Thus, **RapidInstall** being executed "in", "on" or "by" the command line operating environment establishes functionality provided by the command line operating environment. This is consistent with the originally filed disclosure and Applicant's recently cited Webopedia definition, "The environment in which users run programs. For example the DOS environment consists of all the DOS commands ...". Accordingly in DOS for example, the command line operating environment would included "hardwired" commands as well as batch commands and executable add-on commands.

Therefore, Applicant's arguments are not persuasive. **RapidInstall** clearly discloses an alternate execution mode being provided by the command line operating environment.

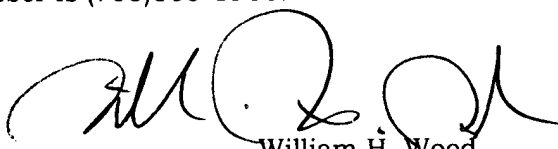
Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)-272-3756. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.


WILLIAM WOOD William H. Wood
PRIMARY EXAMINER Patent Examiner
AU 2193
January 18, 2008